





Robert Greene Sterne Edward J. Kessler Jorge A. Goldstein David K.S. Comwell Robert W. Esmoul Tracy-Gene G. Durkin Michael B. Ray Robert E. Sokohl Eric K. Steffe Michael Q. Lee Steven R. Ludwig John M. Covert Linda E. Alcom Robert C. Millonig Donald J. Featherstone Timothy J. Shea, Jr Lawrence B. Bugaisky Michael V. Messinger Judith U. Kim Patrick E. Garrett
Jeffrey T. Helvey
Heidi L. Kraus
Eldora L. Ellison
Thomas C. Fiala
Albert L. Ferro*
Donald R. Banowit
Peter A. Jackman
Teresa U. Medler
Jeffrey S. Weaver
Kendrick P. Patterson
Vincent L. Capuano
Brian J. Del Buono
Virgil Lee Beaston
Theodore A. Wood
Elizabeth J. Haanes
Joseph S. Ostroff
Frank R. Cottlingham
Christine M. Lhuller
Rae Lynn P. Guest

May 9, 2005

George S. Bardmesser Daniel A. Klein Jason D. Eisenberg Michael D. Specht Andrea J. Kamage Tracy L. Muller Jon E. Wright LuAnne M. DeSantis Ann E. Summerfield Aric W. Ledford Helene C. Carlson Cynthia M. Bouchez Timothy A. Doyle' Gaby L. Longsworth Lori A. Gordon Nicole D. Dretar Ted J. Ebersole Jyoti C. Iyer Laura A. Vogel Michael J. Mancuso Bryan S. Wade Aaron L. Schwartz Michael G. Penn* Shannon A. Carroll* Wesley W. Jones* Matthew E. Kelley* Nicole R. Kramer*

Registered Patent Agents
Karen R. Markowicz
Nancy J. Leith
Matthew J. Dowd
Katrina Yujian Pei Quach
Bryan L. Skelton
Robert A. Schwartzman
Teresa A. Colella
Jeffrey S. Lundgren
Victoria S. Rutherford

Michelle K. Holoubek Simon J. Elliott Julie A. Heider Mita Mukherjee Scott M. Woodhouse Christopher J. Walsh Liliana Di Nola-Baron Peter A. Socarras Jeffrey Mills

Of Counsel
Kenneth C. Bass III
Evan R. Smith
Marvin C. Guthrie

*Admitted only in Maryland *Admitted only in Virginia •Practice Limited to Federal Agencies

WRITER'S DIRECT NUMBER: (202) 772-8520
INTERNET ADDRESS: TWOOD@SKGF.COM

Mail Stop: Amendment

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Re:

U.S. Utility Patent Application

Appl. No.: 10/823,626; Filed: April 14, 2004

: Method and System for Adaptive Modulation Scheduling

Inventors:

Alan GIN et al.

Our Ref:

1875.4090001

Sir:

Transmitted herewith for appropriate action are the following documents:

- 1. Information Disclosure Statement;
- 2. A listing of the cited documents on Form PTO-1449 (1 page);
- 3. Copies of the cited documents (AO1-AR1); and
- 4. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

Commissioner for Patents May 9, 2005 Page 2

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Theodore A. Wood Attorney for Applicants Registration No. 52,374

JTH/TAW:ddc Enclosures

395844_1.DOC



In re application of:

Confirmation No.: 4639

Alan GIN et al.

Art Unit: 2661

Appl. No.: 10/823,626

Examiner: To Be Assigned

Filed: April 14, 2004

Atty. Docket No.: 1875.4090001

For: Method and System for Adaptive

Modulation Scheduling

Information Disclosure Statement

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Mail Stop: Amendment

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Applicants have listed publication dates on the attached Form PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent

application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

Applicants have checked the appropriate boxes below.

- 1. Statement under 37 C.F.R. 1.704(d). Each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 2. Filing under 37 C.F.R. § 1.97(b). This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits. No statement or fee is required.
- 3. Filing under 37 C.F.R. § 1.97(c). This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection, or Notice of Allowance, or an action that otherwise closes prosecution in the application.
 - a. Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than

three months prior to the filing of this Information Disclosure

Statement. 37 C.F.R. § 1.97(e)(1). Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2). c. Attached is our PTO-2038 Credit Card Payment Form in the amount of \$_____ in payment of the fee under 37 C.F.R. § 1.17(p). 4. Filing under 37 C.F.R. § 1.97(d) This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. Enclosed find our PTO-2038 Credit Card Payment Form in the amount of \$_____ in payment of the fee under 37 C.F.R. § 1.17(p); in addition: a. Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than

three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

- b. Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- 6. A concise explanation of the relevance of the non-English language document(s) appears below in accordance with 37 C.F.R. § 1.98(a)(3).
- 7. Copies of documents AO1, AP1, AQ1, and AR1 are submitted. However, in accordance with 37 C.F.R. § 1.98(a)(2), copies of the U.S. patents cited on the attached Form PTO-1449 are not submitted.
- 8. Copies of the documents were cited by or submitted to the Office in an IDS that complies with 37 C.F.R. § 1.98(a)-(c) in Application No._______, filed _______, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

It is respectfully requested that the Examiner initial and return a copy of the enclosed Form PTO-1449, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Theodore A. Wood Attorney for Applicants Registration No. 52,374

Date: May 9, 2005

1100 New York Avenue, N.W. Washington, D.C. 20005-3934 (202) 371-2600

395012_1.DOC

FORM PTO-1449 INFORMATION DISCLOSURE STATEMENT				INVENTORS Alan GIN et al.			\$ 0
				FILING DATE April 14, 2004		RT UNIT	The 5
EXAMINER	DOC.	T		TENT DOCUMENTS	T	1	EURIG DATE
INITIAL	REF.	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA1	2003/0058887 A1	03/2003	Dworkin et al.			
	AB1	2003/0061623 A1	03/2003	Denney et al.			
	AC1	2003/0067877 A1	04/2003	Sivakumar et al.			
	AD1						
	AE1						
·	AF1						
	AG1						
	AH1						
	Al1						-
			FOREIGN	PATENT DOCUMENTS	3		
EXAMINER INITIAL	DOC. REF.	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AJ1						Yes No
	AK1						Yes No
	AL1						Yes
	AM1						No Yes
	AN1		<u> </u>				No Yes
	ANI	OTHER DOCUMENT	S (Includia	ng Author, Title, Date,	Pertinent Pag	es. etc.)	No.
EXAMINER INITIAL	DOC. REF.		O (IIIOI GGII	CITATION	<u> </u>		
	AO1	Fellows, D. and Jones, D., "DOCSIS™ Cable Modem Technology," <i>IEEE Communications Magazine</i> , IEEE, pp. 202-209 (March 2001).					
	AP1	Intelligent Multiplexing Solutions for Video-On-Demand Systems, Cisco Systems, Inc. White Paper, 7 pages (Copyright 1992-2001).					
	AQ1	Park, W. and Wang, W., "QoS-sensitive transport of real-time MPEG video using adaptive redundancy control," <i>Computer Communications 24</i> , Elsevier Science B.V., pp. 78-92 (2001).					
	AR1	European Search F 04009298.3, 3 page		ed March 17, 2005, for E	European Pater	nt Application l	Number
EXAMINER					DATE	CONSIDERED)
				is in conformance with MPEP	609. Draw line th	rough citation if no	ot in conformance
and not consid 394990_1.DOC	lered. Inclu	de copy of this form with ne	xt communica	ation to Applicant.			

Page 1 of 1